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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/678,390	10/03/2003	Kenneth J. Artis	158079-0003	3517
29000 7590 05/14/2009 IRELL & MANELLA LLP 1800 AVENUE OF THE STARS SUITE 900 LOS ANGELES, CA 90067				
EXAMINER				
LIU, CHIA-YI				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/678,390

**Applicant(s)**

ARTIS, KENNETH J.

**Examiner**

CHIA-YI LIU

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 March 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

This action is in response to an election submitted 3/6/2009. Applicant has elected group I (Claims 1-17) and withdrawn claims 18-34, 35-42 and 44. Upon careful consideration of Applicant's amendment and arguments, new grounds of rejections necessitated by Applicant's amendments are set forth in detail below.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 1 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. More specifically, the amended Claim 1 includes the limitation of "providing viewing access for the artist associated with developing the undeveloped creative work of the monetary amount in a locked account" which is not described in the specification. (The word "locked account" can not be found in the original specification) Removal of the new matter is required.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-17 are rejected under 35 U.S.C. 103(a) as being anticipated by Camelio (US 2004/0015427) in view of Weichert (US 7,003,493 B2), further in view of Pittelli (US 2002/0198763 A1), further in view of Official Notice, and further in view of Massey, Jr. (US 6,792,411 B1)

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As per Claim 1

Camelio ('427) discloses

a user interface routine for visually displaying information about specific undeveloped creative works seeking financial sponsorship, see Fig 2 (206), Fig 8 (project info) and paragraph 0049 (uncompleted creative work in exchange for capital).

said undeveloped creative works including motion picture works (invest in new creative works (film)), see paragraph 0083 and paragraph 0151 (video, movie)

Camelio ('427) teaches wherein said information concerning the undeveloped creative works includes a description of at least one of the undeveloped motion picture works, see paragraph 0151 (project type: movie, project description), but fails to explicitly disclose the information concerning the creative works include plot description. Massey ('411) teaches the information concerning a creative work (movie) to be produced include a plot description, see column 4, lines 56-65. Therefore, the Examiner asserts that it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify Camelio's invention to include said information concerning the undeveloped creative works includes a description of at least one of the undeveloped motion picture works. One would be motivated to do so for the benefit of allowing patrons to decide what creative works are worth investing in based on how interesting he/she thinks the plots are.

Camelio ('427) teaches purchases of benefits relating to a specific work (purchase rights for particular work), see paragraph 0002, lines 12-15, and the work is an undeveloped creative work (uncompleted creative work), see paragraph 0049, lines 6-9, but fails to explicitly disclose a processing handling routine for receiving and processing requests for the purchases. Official Notice [now admitted prior art] is taken that it is old and well known to receive and process requests for purchases. Therefore, the Examiner asserts that it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify Camelio's invention to include a processing handling routine for receiving and processing requests for purchases. One would be motivated to do so, for the benefit of giving interested parties the opportunity to request for purchase and have their requests be processed, thereby allowing artists to collect finance for their works faster.

Camelio ('427) teaches a storage medium (webpage) for storing user information (patron information) which includes selected/chosen inventories, see paragraph 0165, lines 1-2, 5-10 and Fig 11 and 51 and collecting information on creative works in a database, see paragraph 0184, lines 4-5, but fails to explicitly

disclose associating the patron information to the specific undeveloped creative work selected by the user. Official Notice [now admitted prior art] is taken that it is old and well known to link information together. Therefore, the Examiner asserts that it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify Camelio's invention to include associating the patron information to the undeveloped creative work selected by the user. One would be motivated to do so, for the benefit of linking patrons with the creative work they invested in so that the artists can find out who support their project.

Camelio ('427) teaches patron information may be accessed (made available), see paragraph 0165 lines 1-5, and the patron's information includes email, see Fig 15, but fails to explicitly disclose facilitating electronic notification of patrons associated with a particular undeveloped creative work concerning availability of their purchased benefits, or upon the condition that the predefined target threshold amount is not attained. Pittelli ('763) teaches the predefined target threshold amount is not attained (fails to meet funding milestone/does not obtain the level of predefined support), see paragraph 0030, lines 21-23 and paragraph 34, lines 20-21. Official Notice [now admitted prior art] is taken that it is old and well known in the art to notify people news concerning their investments/benefits. Both Camelio and Pittelli are directed toward obtaining financing from interested individuals to produce a work. Therefore, the Examiner asserts that it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify Camelio's invention to include facilitating electronic notification of patrons associated with the specific undeveloped creative work concerning availability of their purchased benefits, or upon the condition that the predefined target threshold amount is not attained. One would be motivated to do so for the benefit of keeping patrons updated on the progress of the work and changes associated with their benefits.

Camelio ('427) teaches an accounting routine that aggregates monetary amounts (money) in a locked account (placed in escrow) and that the monetary amount (capital) is turned over to the artist, see paragraph 0144, lines 1-6, and is for use in development of the specific undeveloped creative work (new project), see paragraph 0145, lines 1-3, but fails to explicitly disclose

Camelio ('427) teaches money contributed by fan may be place in an escrow account, see paragraph 0144, and when the artist has reached has financial goal the project may then be produced, see paragraph 0145, but fails to explicitly disclose providing viewing access for the artist associated with developing the undeveloped creative work of the monetary amount in the locked account. However, since the artists are allowed to raise capital on their own, see paragraph 0007 of Camelio, it would be obvious to allow the artist to know how much money he/she has raised (money raised= money contributed by fan=

monetary amount in locked account). Therefore, the Examiner asserts that it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify Camelio's invention to include providing viewing access for the artist associated with developing the undeveloped creative work of the monetary amount in the locked account. One would be motivated to do so, for the benefit of allowing artists to know if enough funding has been raised to complete his/her work.

Camelio ('427) teaches releases (capital turned over to artist) all or a portion of the aggregated monies (see paragraph 0144, lines 5-6) to facilitate completion of the undeveloped creative work (new project), see paragraph 0145, lines 1-3, but fails to explicitly disclose the monetary amount is released when a predefined target threshold amount is attained. Weichert ('493) teaches the monetary amount is released when a predefined target threshold amount is attained (funds can be held in the account until a threshold amount is crossed that would trigger an automated payout), see column 13, lines 43-46. Both Camelio and Weichert are directed toward fund transfer system. Therefore, the Examiner asserts that it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify Camelio's invention to include the monetary amount is released when a predefined target threshold amount is attained. One would be motivated to do so, for the benefit of allowing artists to use fund to start on a project when a predetermined financial goal is reached.

As per Claim 2.

Camelio ('427) further discloses means for disseminating to user-interactive devices (ArtistShare) presentation information relating to one or more undeveloped creative works, see paragraph 0107, lines 3-6 and paragraph 0080, lines 2-3, 11-15.

As per Claim 3.

Camelio ('427) further discloses a web server coupled to a storage medium (database) having stored thereon one or more web pages containing the presentation information (information of creative works), see paragraph 0047, lines 3-6, and paragraph 0052, lines 4-6.

As per Claim 4

Camelio ('427) further discloses software instructions for executing steps whereby the presentation information is downloaded to remote computerized machines (PDA, personal computer) configured to allow a plurality of different potential patrons to review the presentation information, see paragraph 0169, lines 11-12, paragraph 0087, lines 3-4, paragraph 0081, lines 23-27.

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As per Claim 5

Camelio ('427) further discloses software instructions for execution on a remote patron computer and data files comprising at least a portion of said presentation information, see paragraph 0087, lines 3-4 and paragraph 0082.

As per Claim 6

Camelio ('427) further discloses presentation information (artist's creations) exists in static medium (CD), wherein said form on a printed or magnetic see paragraph 0085, lines 11-14, and paragraph 0187, lines 24-31.

As per Claim 7

Camelio ('427) further discloses the process handling routine receives electronic payment information from the patron electronically (Internet payment) from user-interactive devices and automatically provides the electronic payment information to said accounting routine for aggregation with other received funds, see paragraph 0087, lines 10-15.

As per Claim 8

Camelio ('427) teaches purchases of benefits relating to a work (purchase rights for particular work), see paragraph 0002, lines 12-15, and the work is an undeveloped creative work (uncompleted creative work), see paragraph 0049, lines 6-9, and storing user information (patron information) and email, see paragraph 0165, lines 1-2, 5-10 and Fig 51, but fails to explicitly disclose a process handling routine collects patron information including the name of the patron and the patron's e-mail address, and associates the patron information with the undeveloped creative work and the purchased benefits. Official Notice is taken that it is old and well known to link information together. Therefore, the Examiner asserts that it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify Camelio's invention to include a process handling routine collects patron information including the name of the patron and the patron's e-mail address, and associates the patron information with the undeveloped creative work and the purchased benefits. One would be motivated to do so, for the benefit of linking patrons with their purchased benefits so they can easily find out what their benefits are.

As per Claim 9

Camelio ('427) further discloses benefit redemption routine uses the patron's email address to notify the patron concerning the availability of the patron's

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purchased benefit or that the predefined target threshold amount was not attained, see Claim 1 above.

As per Claim 10

Camelio ('427) further discloses the purchased benefit comprises a copy (downloadable recording of final project) of or discount relating to the creative work, see paragraph 0120, lines 6-8.

As per Claim 11

Camelio ('427) does not specifically disclose a discount relating to merchandise or service relating to the creative work, other than the creative work itself. Pittelli teaches discounts on merchandise associated with the artist (relating to creative work, other than creative work itself) see paragraph 0021, lines 16-19. Both Camelio and Pittelli are directed toward obtaining financing from interested individuals to produce a work. Therefore, the Examiner asserts that it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify Camelio's invention to include a discount relating to merchandise or service relating to the creative work, other than the creative work itself. One would be motivated to do so for the benefit of attracting fans to financially contribute to the development of artists.

As per Claim 12

Camelio ('427) does not specifically disclose a copy of or discount on a creative work different from the undeveloped creative work or to other merchandise or services unrelated to the undeveloped creative work, Pittelli teaches discount to other services (concert), see paragraph 0021, lines 16-19. Both Camelio and Pittelli are directed toward obtaining financing from interested individuals to produce a work. Therefore, the Examiner asserts that it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify Camelio's invention to include a copy of or discount on a creative work different from the undeveloped creative work or to other merchandise or services unrelated to the undeveloped creative work. One would be motivated to do so for the benefit of attracting people to financially contribute to the undeveloped work.

As per Claim 13

Camelio ('427) further discloses data in the storage medium is updated to include presentation information relating to in-progress development (project status, process) or completion of the creative work (finish date, release date), see figure 8.

As per Claim 14

Camelio ('427) further discloses the updated presentation information comprises audio, image and/or [visual] video data of the creative work, see paragraph 0171 and 0172 and Fig. 32.

As per Claim 15

Camelio ('427) further discloses an update notification routine having access to the patron information, stored in the storage medium, for facilitating automatic electronic notification of patrons associated with a particular undeveloped creative work concerning the updated presentation information, see paragraph 0165, lines 1-2, paragraph 0145 lines 1-4, and paragraph 0160, lines 3-5 and Claim 1 above.

As per Claim 16

Camelio ('427) further discloses the purchased benefit comprises digital data (CD) relating to the creative work, and wherein a patron may obtain the purchased benefit electronically by accessing the computerized system and requesting electronic transmission of the digital data to a patron's computer, paragraph 0146, lines 1-4.

As per Claim 17

Camelio ('427) does not specifically disclose benefit redemption routine electronically transmits a key number to said patrons, which may be used by said patrons to redeem the purchased benefit online and/or at a point-of-sale location. Official Notice is taken that it is old and well known in the coupon redemption arts to have numbers on coupons for redemption, for example, electronic coupons, for identification of the redemption offer and the associated products. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use a number to redeem benefits online. One would be motivated to do so for the benefit of allowing patrons to more easily and conveniently redeem their benefits.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHIA-YI LIU whose telephone number is (571)270-1573. The examiner can normally be reached on Mon-Thur alternating Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, TOM DIXON can be reached on (571) 272-6803. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/THOMAS A DIXON/  
Supervisory Patent Examiner, Art Unit 3696

CHIA-YI LIU  
Examiner  
Art Unit 3696